

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

In the Matter of

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Proposed Amendments to the Framework for
Integrated Resource Planning.

DOCKET NO. 2009-0108

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**BLUE PLANET FOUNDATION'S RESPONSE TO THE
NATIONAL REGULATORY RESEARCH INSTITUTE'S
COMMENTS DATED NOVEMBER 3, 2009**

AND

CERTIFICATE OF SERVICE

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Blue Planet Foundation ("Blue Planet"), by and through its attorneys Schlack Ito Lockwood Piper & Elkind, and pursuant to the Commission's September 23, 2009 Order Approving the Stipulated Procedural Order, As Modified, hereby responds to National Regulatory Research Institute's "Clean Energy Scenario Planning: Thoughts on Creating a Framework" dated November 3, 2009 ("NRRI Paper").

I. DISCUSSION

A. Blue Planet Generally Supports Scenario Planning, Although the Extent to Which CESP Is Warranted or Should Replace IRP Is Unclear.

The NRRI Paper requests the parties to this proceeding to address:

whether the uncertainties facing Hawaii's clean energy future warrant the use of scenario planning, as distinct from using the traditional integrated resource planning approach or an integrated planning approach constrained by clean energy mandates.

Id. at 10. It appears that the chief virtue of scenario planning in general, and clean energy scenario planning ("CESP") in particular, is that it may help identify resource or policy responses that produce favorable results in all or most plausible scenarios. *See* NRRI Paper at 9.

To the extent conventional integrated resource planning (“IRP”) is unable to identify resources or policies that are similarly capable across a range of potential scenarios, CESP may offer genuine benefits that warrant inclusion of scenario planning in the framework under development in this proceeding.

It is unclear, however, the extent to which potential or actual “uncertainties facing Hawaii’s clean energy future” may warrant the use of CESP. Types of uncertainties must be distinguished. Blue Planet submits that statutory requirements concerning clean energy for electricity production in Hawaii are not uncertainties warranting the use of CESP.¹ To the contrary, state law now requires a transition from the use of imported fossil fuels to the use of clean energy (for electricity production) in a matter of about two decades. Relative to past non-statutory policy guidance or other directives lacking the force of law, Hawaii law is now quite certain. As the HECO Companies² have noted in the decoupling docket, with Act 155 “there is no ‘without HCEI’ scenario.”³ *See also* NRRI Paper at Appendix A (listing Hawaii clean energy-related statutory requirements). Accordingly, the proper focus of any framework adopted in this proceeding should be the direct implementation of Hawaii’s clean energy statutory requirements, especially the electric utility requirement of seventy percent clean energy by 2030.

The NRRI Paper requests the parties to address whether CESP is warranted relative to “an integrated planning approach constrained by clean energy mandates.” Blue Planet submits that all planning approaches are constrained by clean energy mandates. Given the number and scope of clean energy statutory requirements, as set forth in Appendix A to the

¹ Appendix A to the NRRI Paper (“Appendix A”) lists a number of statutory requirements concerning clean energy in Hawaii. Appendix A states that Act 155 “mentions” the goal of 70% clean energy from clean energy. In addition to referring to this goal in section 1, Act 155 requires the achievement of this goal for electricity production as a matter of law. *See* 2009 Haw. Sess. Laws, Act 155; H.B. 1464, 25th Leg. (Haw. 2009) at §§ 2-3, 11. It is also noted that Appendix A includes the Hawaii Clean Energy Initiative, which is a non-statutory accord.

² Hawaiian Electric Company, Inc., Maui Electric Company, Limited, and Hawaii Electric Light Company, Inc.

NRRI Paper (denominated as a “Partial List”), it would be inappropriate to consider a planning approach that is not constrained by clean energy mandates. The NRRI Paper notes that the Commission has the authority to revise the Renewable Portfolio Standards (“RPS”) ⁴ and to amend the Energy Efficiency Portfolio Standards (“EEPS”) ⁵ and suggests that “the scenario construction needs to address the possibility of these changes.” NRRI Paper at 8. Blue Planet submits the mere potential to modify RPS and EEPS standards is not a sufficient basis for considering a planning approach that is not constrained by clean energy mandates. As the NRRI Paper affirms, only those scenarios that are “driving forces” should be included in scenario planning. *Id.* at 6. Potential modifications to RPS and EEPS do not appear to be such “driving forces.”

Indeed, the planning approach should support and promote achievement of Hawaii’s clean energy objectives to the extent feasible. *See* Energy Agreement⁶ at 36 (purpose of CESP is to “improve analysis and guidance for Hawaii’s clean energy future[.]”) In this regard, the NRRI Paper does not appear to acknowledge potential negative consequences associated with scenario planning: practical, enforceable plans giving way to flexible, “high-level guidance”⁷ allowing the utilities significant discretion to diverge from or unilaterally modify agreed-upon plans. It is also noted that the NRRI Paper does not appear to contain any references to other electric utilities that have successfully adopted scenario planning.

³ See Opening Brief of Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited filed Sept. 8, 2009 at Exhibit F, p. 2 (Docket No. 2008-0274).

⁴ See Haw. Rev. Stat. ch. 269, Part V, *et seq.*

⁵ See Act 155 at §§ 10, 11.

⁶ “Energy Agreement Among the State of Hawaii, Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, and the Hawaiian Electric Companies” dated Oct. 20, 2008 (“Energy Agreement”).

⁷ See Proposed CESP Framework attached as Exhibit 1 to the Commission’s May 14, 2009 Order at Attachment 1, p. 3.

It is possible that other uncertainties may be adequately addressed by means of the IRP process. For example, the fourth Integrated Resource Plan for the Hawaiian Electric Company (“IRP-4”)⁸ appears to have considered a range of scenarios in a manner similar to the CESP process. The IRP process in Hawaii is generally regarded as having failed to live up to its potential primarily because the IRPs were not rigorously reviewed and enforced by the Commission.⁹ As explained in the HEPP Report.

Because the IRP process, including the public advisory group process, is controlled entirely by the utilities, it is only in the process of review by the PUC that other parties have an opportunity to express any exceptions they may have with the utility plans. Without active and diligent oversight by the PUC the IRP process has become largely a utility exercise.

HEPP Report at 87 (emphasis added).

B. Planning Approaches Should Encourage and Support Public Participation and May Necessitate an Independent Observer.

Blue Planet supports the use of planning approaches that encourage and support increased public involvement in and support for Hawaii’s transition to a clean energy economy. Public awareness and support for ending Hawaii’s dependence on imported fossil fuels is crucial to achieving Hawaii’s ambitious energy policy objectives. Blue Planet is a Hawaii public

⁸ See Docket No. 2007-0084.

⁹ See C. Freedman and J. Lazar, “Hawaii Energy Utility Regulation and Taxation: Practice, Policy and Incentives for Energy Efficiency, Renewable and Distributed Energy Resources: A Report for the Hawaii Energy Policy Project” (July 11, 2003) (“HEPP Report”). The HEPP Report notes that:

The IRP process is certainly the PUC’s most explicit expression of energy policy and could, if rigorously implemented, provide a productive venue for implementing Hawaii’s energy policies. Unfortunately, the IRP process has not been implemented as diligently as originally intended by the PUC. Several IRP applications filed long ago by the utilities have not even been scheduled for review by the PUC.

Id. at 4 (emphasis added). Similarly,

Several important aspects of the implementation of the IRP process are ineffective because the PUC has not followed through with diligent application of the terms or intent of the IRP Framework. Recent IRP plan applications have not been reviewed by the PUC at all.

interest organization, with over 10,000 registered “Friends of Blue Planet,” dedicated to ending Hawaii’s dependence on imported fossil fuels by promoting the rapid adoption of renewable energy and increased energy efficiency. The NRRI Paper identifies community groups as participants in a CESP process and suggests that a “neutral facilitator” may be necessary. Blue Planet suggests that it may be appropriate to consider an independent third party, modeled on the Independent Observer in the Commission’s Competitive Bidding Framework,¹¹ to oversee the planning and public participation processes utilized pursuant to the final framework adopted in this proceeding.

II. CONCLUSION

As Blue Planet has previously noted, stakeholders interviewed for the HEPP Report on IRP planning expressed “widespread disappointment with the amount of renewable energy resource implementation in Hawaii.” *Id.* at 10. The relative lack of success of the IRP process to date must not be repeated. Blue Planet supports further consideration and refinement of both the CESP and IRP processes in an effort to ensure the planning framework avoids past failures and meaningfully contributes to compliance with clean energy statutory requirements and the rapid achievement of Hawaii’s clean energy objectives.

DATED: Honolulu, Hawaii, November 23, 2009.



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Id. at 87 (emphasis added).

¹¹ See Docket No. 03-0372, Decision and Order No. 23121 (Dec. 11, 2006).

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF HAWAII

In the Matter of

DOCKET NO. 2008-0108

PUBLIC UTILITIES COMMISSION

Instituting a Proceeding to Investigate
Implementing a Decoupling Mechanism for
Hawaiian Electric Company, Inc., Hawaii
Electric Light Company, Inc., and Maui
Electric Company, Limited

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I HEREBY CERTIFY that on this date a copy of the foregoing document was
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